

SENATE BILL NO. 868

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Transportation

on _____)

(Patron Prior to Substitute--Senator Cosgrove)

A BILL to amend and reenact § 46.2-844 of the Code of Virginia, relating to passing stopped school buses; rebuttable presumption.

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-844 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-844. Passing stopped school buses; penalty; prima facie evidence; penalty.

A. The driver of a motor vehicle approaching from any direction a clearly marked school bus that is stopped on any highway, private road, or school driveway for the purpose of taking on or discharging children, the elderly, or mentally or physically handicapped persons, who, in violation of § 46.2-859, fails to stop and remain stopped until all such persons are clear of the highway, private road, or school driveway and the bus is put in motion is subject to a civil penalty of \$250, and any prosecution shall be instituted and conducted in the same manner as prosecutions for traffic infractions.

A prosecution or proceeding under § 46.2-859 is a bar to a prosecution or proceeding under this section for the same act, and a prosecution or proceeding under this section is a bar to a prosecution or proceeding under § 46.2-859 for the same act.

In any prosecution for which a summons charging a violation of this section was issued within ~~10~~ 30 business days of the alleged violation, proof that the motor vehicle described in the summons was operated in violation of this section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, as required by Chapter 6 (§ 46.2-600 et seq.) shall give rise to a rebuttable presumption that the registered owner of the vehicle was the person who operated the vehicle at the place where, and for the time during which, the violation occurred. Such presumption shall be rebutted if (i) the owner of the vehicle files an affidavit by regular mail with the clerk of the general district

27 court that he was not the operator of the vehicle at the time of the alleged violation, (ii) the owner testifies
28 in open court under oath that he was not the operator of the vehicle at the time of the alleged violation, or
29 (iii) a certified copy of a police report showing that the vehicle had been reported to the police as stolen
30 prior to the time of the alleged violation of this section is presented prior to the return date established on
31 the summons issued pursuant to this section to the court adjudicating the alleged violation. Nothing herein
32 shall limit the admission of otherwise admissible evidence.

33 The testimony of the school bus driver, the supervisor of school buses, or a law-enforcement
34 officer that the vehicle was yellow, conspicuously marked as a school bus, and equipped with warning
35 devices as prescribed in § 46.2-1090 is prima facie evidence that the vehicle is a school bus.

36 B. 1. For purposes of this subsection, "video-monitoring system" means a system with one or more
37 camera sensors and computers installed and operated on a school bus that produces live digital and
38 recorded video of motor vehicles being operated in violation of § 46.2-859. All such systems installed
39 shall, at a minimum, produce a recorded image of the license plate and shall record the activation status
40 of at least one warning device as prescribed in § 46.2-1090 and the time, date, and location of the vehicle
41 when the image is recorded.

42 2. A locality may, by ordinance, authorize the school division of the locality to install and operate
43 a video-monitoring system in or on the school buses operated by the division or to contract with a private
44 vendor to do so on behalf of the school division for the purpose of recording violations of subsection A.
45 Such ordinance may direct that any civil penalty levied for a violation of subsection A shall be payable to
46 the local school division. In any locality that has adopted such an ordinance, a summons for a violation of
47 subsection A may be executed as provided in § 19.2-76.2 and, notwithstanding the provisions of § 19.2-
48 76, the summons may be executed by mailing by first-class mail a copy thereof to the address of the owner
49 of the vehicle contained in the records of the Department. Every such mailing shall include, in addition to
50 the summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the
51 operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided in
52 subsection A and (ii) instructions for filing such an affidavit, including the address to which the affidavit
53 is to be sent. If the summoned person fails to appear on the date of return set out in the summons mailed

54 pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3. No
55 proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to
56 appear on the return date of the summons. Any summons executed for violation of this section shall
57 provide to the person summoned at least 30 business days from the mailing of the summons to inspect
58 information collected by a video-monitoring system in connection with the violation.

59 3. Any private vendor contracting with a school division pursuant to this subsection may impose
60 and collect an administrative fee in addition to the civil penalty imposed for a violation of subsection A
61 and payable pursuant to this subsection, so as to recover the expenses of collecting any unpaid civil penalty
62 when such penalty remains due more than 30 days after the date of the mailing of the summons and notice.
63 The administrative fee shall be reasonably related to the actual cost of collecting the civil penalty and shall
64 not exceed \$100 per violation. The operator of the vehicle shall pay the unpaid civil penalty and any
65 administrative fee detailed in a notice or citation issued by the private vendor. If paid no later than 60 days
66 after the date of the mailing of the summons and notice, the administrative fee shall not exceed \$25.

67 4. Any private vendor contracting with a school division pursuant to this subsection may enter into
68 an agreement with the Department of Motor Vehicles, in accordance with the provisions of subdivision B
69 30 of § 46.2-208, to obtain vehicle owner information regarding the registered owners of vehicles that
70 improperly pass stopped school buses. Information provided to such private vendor shall be protected in
71 a database with security comparable to that of the Department of Motor Vehicles' system and used only
72 for enforcement against individuals who violate the provisions of this section. The school division shall
73 annually certify compliance with this subdivision and make all records pertaining to such system available
74 for inspection and audit by the Commissioner of Highways or the Commissioner of the Department of
75 Motor Vehicles or their designee. Any person who discloses personal information in violation of the
76 provisions of this subdivision shall be subject to a civil penalty of \$1,000 per disclosure. Any unauthorized
77 use or disclosure of such personal information shall be grounds for termination of the agreement between
78 the Department of Motor Vehicles and the private vendor.

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